

**UNITED STATES DISTRICT COURT
IN THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MILISSA JONES, *
*
Plaintiff, *
*
versus * **CASE NO: 2:07 CV273-WKW**
*
FLYING J, INC. *
*
Defendant. *
*
* * * * *

**FLYING J INC.'S RESPONSES TO PLAINTIFF'S OBJECTIONS TO
DEFENDANT'S EXHIBIT LIST**

I. INTRODUCTION

Plaintiff, Milissa Jones, claims that her former employer, Flying J Inc., terminated her employment in retaliation for her complaint of sexual harassment against her supervisor, General Manager Butch Jacobs.¹ As part of her claim of retaliation, Plaintiff challenges the reason given for her termination, excessive absenteeism. She testified during her deposition that other Travel Plaza employees missed more work than she, but were not discharged and identified these co-workers by name. In defense of this claim, Flying J seeks to introduce various exhibits to dispute Plaintiff's anticipated testimony on this issue. Specifically, Flying J seeks to introduce Exhibits 10-28 and 34, which are the termination sheets, time cards and work schedules for each individual identified by Plaintiff as a co-worker that missed more work than she, but was not terminated.

¹ Plaintiff's Complaint asserted two claims: (1) her immediate supervisor, General Manager Butch Jacobs, sexually harassed her in violation of Title VII, and (2) Flying J terminated her employment in retaliation for that complaint. Pursuant to this Court's order granting Flying J's Motion for Summary Judgment in part, Plaintiff's claim of sexual harassment has been dismissed, leaving only her retaliation claim for trial.

Plaintiff objects to Flying J's use of these exhibits on the basis of relevance. Specifically, Plaintiff argues that these individuals are not comparators, that is, these individuals did not hold the same title or position as Plaintiff. Plaintiff's objection is without merit because Plaintiff herself identified these nine individuals as comparators and Flying J's absenteeism policy applies to all of these individuals, Plaintiff included, regardless of title or position. For the reasons discussed herein, Plaintiff's objection should be overruled.

II. ARGUMENT

The only claim that remains for trial is Plaintiff's retaliation claim. Plaintiff asserts that she was discharged because a report of harassment was made by her lawyer on her behalf. (Excerpts from Plaintiff's Depo. attached as Exhibit A, pp. 105-06). Contrary to Plaintiff's claim, Flying J terminated Plaintiff due to excessive absenteeism, not in retaliation for her complaint of sexual harassment. Plaintiff missed six days of work during a twelve-day time period, four of these days were consecutive scheduled days of work (April 18, 19, 20, 21, 2006), and informed her acting manager, Keith Staples, that she did not know when she would work the following week. Plaintiff disputes this articulated reason for her termination and claims that other Travel Plaza employees missed more work than she, but were not terminated.

To meet her burden on her retaliation claim, Plaintiff must prove that (1) she engaged in protected activity; (2) she suffered adverse employment action; and (3) she suffered the adverse action **because of** the protected activity. *Gupta v. Florida Bd. Of Regents*, 212 F.3d 571, 587 (11th Cir. 2000). Evidence that similarly situated employees were treated more favorably may be used to support Plaintiff's *prima facie* case. As noted in the very decision cited by Plaintiff, *Jones v. Bessemer Carraway Med. Ctr.*, 137

F.3d 1306, 1311 (11th Cir. 1998), “in determining whether employees are similarly situated for purposes of establishing a prima facie case, it is necessary to consider whether the employees are involved in or accused of the same or similar conduct and are disciplined in different ways. **The most important factors in the disciplinary context ... are the nature of the offenses committed and the nature of the punishments imposed.**” (citations omitted) (emphasis added). The converse is also true - - evidence that the company treated similarly situated employees the same would **negate** an inference of unlawful conduct. *DeLuca v. General Services Admin.*, 96 Fed. App. 669, 671 Ca. Fed. 2004) (employer’s treatment of similarly situated individuals was relevant to whether plaintiff was subjected to unlawful conduct); *Jones v. Texas Air Nat’l Guard*, 584 F.2d 104, 106 (5th Cir. 1978) (fact that all employees that were similarly situated to plaintiff were subjected to a change in wages negated any inference of discriminatory conduct).

Plaintiff challenges the reason given for her termination, excessive absenteeism, and claims that other employees missed more work than she, but were not terminated. Plaintiff now objects to Flying J’s use of the exhibits that disprove her claim. Plaintiff argues that these exhibits are not relevant because these employees are not “proper comparators because they did not hold the same title or position as the Plaintiff, did not have the same responsibilities, nor had they missed the same number of days of work....” Plaintiff’s argument is ill-founded for two reasons: (1) Flying J’s attendance policy applies equally to Plaintiff and these employees; and (2) Plaintiff herself identified each and every one of the above employees as her comparator.

First, Flying J's employee handbook provides that excessive absenteeism is grounds for immediate termination. The policy applies equally to Plaintiff and the employees identified by Plaintiff regardless of title or position. Therefore, evidence that disputes Plaintiff's claim that various co-workers missed more work than she, but were not terminated would be highly relevant to Flying J's defense.

In a direct contradiction of her objection to Flying J's exhibits, Plaintiff herself identified at her deposition each employee she believed was a "comparator" - - an individual who allegedly committed the same conduct as Plaintiff, but was not discharged:

Q: What is your belief as far as the reason for your termination - - the true reason for your termination?

A: Retaliation. I think it was because of my complaint against Butch.

Q: And what facts do you have that lead you to that conclusion?

A: I missed four days. I had employees who missed two weeks, and I - - they weren't terminated. I know of - - I can think of three people off the top of my head who missed at least double the amount of time that I did, who had - - pretty much every employee that I had missed days here and there. I cannot think of really anyone who didn't at some point miss at least three or four days, and none of them were terminated. They all still have their jobs.

Q: Can you give me their names, please?

A: Let's see. **Shamarra Bethel.**

* * *

Q: Okay. Who else?

A: **Laquisha Means**, or Mona.

* * *

Q: All right. Who else?

A: Oh, gosh, what was her name? Ginnifer . . .
* * *

Q: Three, **Ginnifer** last name unknown. Anybody else who had more absences than you that was not terminated?

A: . . . But I can say that without a doubt that there were a number of people who missed way more than four days and still had their jobs. I had **Angela** - - oh, what was her last name? . . . **Tanisha**...she missed a period of time as well.

* * *

Q: And are there any other employees that missed more time, or the same amount or more time than you did, and yet were not terminated?

A: Yes.

Q: And who were they?

A. Let's see. **Bernice Beard** . . . **Pamela Holcomb**...**Tanisha Means**...**Angela Nichols**...
Erica Rudolph...**Dominique Stowes** . . . **Ginnifer Wyatt**, . . . and **Sandrella Yeller**.

Exhibit A, pp. 105-109, 118-121) (emphasis added).

To rebut Plaintiff's anticipated testimony on this issue, Flying J seeks to introduce the termination sheet, time cards and work schedule for each of the individual identified by Plaintiff as her "comparator." Specifically, Flying J seeks to introduce the termination sheets and time cards for the following employees: **Laquisha Magee** (Exhibits 11-12); **Bernice Beard** (Exhibits 13-14); **Tenesha Means** (Exhibits 15-16); **Angela Nichols** (Exhibits 17-18); **Dominique Stowes** (Exhibits 19-20); **Erica Rudolph** (Exhibits 21-22); **Pamela Holcomb** (Exhibits 23-24); **Ginnifer Wyatt** (Exhibits 25-26); and **Sandrella Yelder** (Exhibits 27-28). Flying J also intends to introduce a chart that shows

all employees terminated from the Hope Hull store for excessive absenteeism (Exhibit 10) and work schedules pertaining to employees at that location (Exhibit 34). When the work schedule for each individual is cross referenced with that individual's time cards, it will show the number of absences for that employee, if any. In addition, the termination sheets reveal the reason the individual no longer works for Flying J and that all of these individuals are not eligible to be rehired. Regarding each individual identified by Plaintiff, the exhibits show the following:

1. Laquisha Magee was terminated for excessive absenteeism on August 13, 2006. Prior to her termination, the schedule indicates that Ms. Magee missed only three days of work over a three month time period.
2. Bernice Beard was terminated on February 14, 2006 for failing to follow Flying J's procedure. Prior to her termination, she missed only one day of work. This directly contradicts Plaintiff's testimony that Ms. Beard had more absences than she.
3. Taneshia Means was terminated for failing to follow company policies. Less egregious than Plaintiff, Ms. Means missed seven days of work over a five month period.
4. Angela Nichols was terminated for excessive absenteeism on August 4, 2006, after Plaintiff's date of discharge. Contrary to Plaintiff's testimony, Ms. Nichols missed only four days of work over a three month time period during the time Plaintiff was actually working for Flying J.
5. Dominique Stowes voluntarily abandoned her job on March 17, 2006. Prior to her resignation, Ms. Stowes missed four days of work during a three month time frame. This record is not as bad as Plaintiff who missed four consecutive days of work and reported that she was not certain whether she would report for work the following week.
6. Erica Rudolph voluntarily resigned from Flying J on March 15, 2006. She had seven absences in a row, which culminated in her resignation. Ms. Rudolph is not eligible for rehire.
7. Pamela Holcomb missed four days of work during the time Plaintiff worked for Flying J. These four absences occurred over a five month period and is clearly contrary to Plaintiff's representation that Ms. Holcomb was treated more

favorably than Plaintiff. Ms. Holcomb was terminated for insubordination and job abandonment and is not eligible for rehire.

8. Ginnifer Wyatt missed seven days of work which culminated in her resignation. Ms. Wyatt is not eligible for rehire.
9. Sandrella Yelder voluntary resigned on March 9, 2006. Prior to her resignation, she did not miss any days of work. This is clearly contrary to Plaintiff's testimony that Ms. Yelder missed more work than Plaintiff.

Given that Plaintiff, herself, testified under oath that these employees are similarly situated to her (but received more favorable treatment), she should not be permitted to now argue that they are not. Moreover, given that it is likely Plaintiff will testify at trial in accordance with her deposition testimony, *i.e.*, that her termination was retaliatory because other employees committed the same misconduct and were not discharged, Flying J should be permitted to introduce evidence to rebut such testimony. Accordingly, Plaintiff's objections to the introduction of these exhibits are ill-founded, and Flying J should not be prohibited from introducing Exhibits 10-28 and 34 at trial.

Respectfully submitted,

s/Olivia S. Regard
 Olivia S. Regard (La. Bar No. 27114)
**Jones, Walker, Waechter, Poitevent,
 Carrère & Denègre, L.L.P.**
 500 Dover Boulevard, Ste. 120
 Lafayette, Louisiana 70503
 Telephone: (337) 406-5613
 Facsimile: (337) 406-5620
 Email: oregard@joneswalker.com

and

Robert B. Worley, Jr. (La. Bar No. 17212)
**Jones, Walker, Waechter, Poitevent,
Carrère & Denègre, L.L.P.**
201 St. Charles Avenue, 47th Floor
New Orleans, Louisiana 70170-5100
Telephone: (504) 582-8000
Facsimile: (504) 582-8015
Email: rworley@joneswalker.com

and

Carole G. Miller
Audrey Dupont
Maynard Cooper & Gale, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, Alabama 35203
Telephone: (205) 254-1096
Facsimile: (205) 254-1999
Email: cmiller@maynardcooper.com

Counsel for Defendant, Flying J Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 21ST day of July, 2008, a copy of the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of filing will be sent to all counsel of record by operation of the court's electronic filing system.

s/Olivia S. Regard
Olivia S. Regard

FREEDOM COURT REPORTING

Page 1	Page 3
1 UNITED STATES DISTRICT COURT 2 IN THE MIDDLE DISTRICT OF ALABAMA 3 NORTHERN DIVISION 4 5 MILISSA JONES, 6 7 Plaintiff, 8 9 VS. CASE NO. 10 2:07CV273-WKW 11 12 Flying J, INC., 13 14 Defendant. 15 16 17 DEPOSITION OF MILISSA JONES 18 19 STIPULATIONS 20 IT IS STIPULATED AND 21 AGREED, by and between the parties, 22 through their respective counsel, 23 that the deposition of MILISSA JONES	1 assign grounds at the time of the 2 trial, or at the time said deposition 3 is offered in evidence, or prior 4 thereto. 5 IT IS FURTHER STIPULATED 6 AND AGREED that notice of filing of 7 the deposition by the Commissioner is 8 waived. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23
Page 2	Page 4
1 may be taken before Sunnie Gillespie, 2 Commissioner, Certified Court 3 Reporter, State of Alabama at Large, 4 at the law offices of Adam P. Morel, 5 517 Beacon Parkway West, Birmingham, 6 Alabama, on the 8th day of November, 7 2007, commencing at or about 10:44 8 a.m. 9 IT IS FURTHER STIPULATED 10 AND AGREED that the reading and 11 signature to the deposition by the 12 witness is waived, said deposition to 13 have the same force and effect as if 14 full compliance had been had with all 15 laws and rules of court relating to 16 taking of depositions. 17 IT IS FURTHER STIPULATED 18 AND AGREED that it shall not be 19 necessary for any objections to be 20 made by counsel as to any questions, 21 except as to form or leading 22 questions, and that counsel for the 23 parties may make objections and	1 I N D E X 2 3 EXAMINATION BY: PAGE NO. 4 Mr. Worley 7-117 5 Mr. Morel 117-123 6 7 8 E X H I B I T S 9 PLAINTIFF'S EXHIBIT NO. MARKED 10 1 - Document - Charge of 11 Discrimination 117 12 13 DEFENDANT'S EXHIBIT NO. MARKED 14 1 - Document - Acknowledgment 28 15 2 - Document - Discrimination 16 and Harassment 29 17 3 - Document - Grounds for 18 Immediate Termination 32 19 4 - Letter to Milissa Jones 20 from Mr. Morel 68 21 22 23

1 (Page

EXHIBIT

367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660

FREEDOM COURT REPORTING

Page 105	Page 107
1 something like that?	1 Q. Bethel?
2 A. He said that he didn't have	2 A. Yes.
3 my actual doctor's note. I said that	3 Q. Okay. Who else?
4 I should be able to return to work on	4 A. Laquisha Means, or Mona.
5 Tuesday, and that I would be able to	5 Q. Means or Mona?
6 bring it then if I couldn't get it to	6 A. Mona is what she went by.
7 him sooner. My husband was a	7 Q. All right. Who else?
8 recruiter, so his schedule was really	8 A. Oh, gosh, what was her
9 weird.	9 name? Ginnifer -- I can't think of
10 Q. Did he tell you which	10 her last name, but it was Jenni --
11 absences he was holding against you,	11 G-I, not J; not Jennifer -- Ginnifer.
12 and were these absences from the	12 They had long period absences.
13 beginning of when you first started	
14 working there?	13 Q. Do you remember Ginnifer's
15 A. There were no other	14 last name?
16 absences.	15 A. I can't think of it off the
17 Q. Do you accept that as the	16 top of my head, no.
18 true reason for your termination.	17 Q. So, you have Shamarra?
19 A. No.	18 A. Shamarra.
20 Q. What is your belief as far	19 Q. Shamarra Bethel?
21 as the reason for your termination --	20 A. Yes.
22 the true reason for your termination?	21 Q. Number two, Laquisha Means
23 A. Retaliation. I think it	22 or Mona?
	23 A. Yes.
Page 106	Page 108
1 was because of my complaint against	1 Q. Three, Ginnifer last name
2 Butch.	2 unknown. Anybody else who had more
3 Q. And what facts do you have	3 absences than you that was not
4 that lead you to that conclusion?	4 terminated?
5 A. I missed four days. I had	5 A. Those three had long --
6 employees who missed two weeks, and	6 like they missed like more than a
7 I -- they weren't terminated. I know	7 week at a time. I'm trying to think
8 of -- I can think of three people off	8 who all called out. Pretty much
9 of the top of my head who missed at	9 everybody called out at least one
10 least double the amount of time that	10 shift a week. I can't think of
11 I did, who had -- pretty much every	11 names. If I had a schedule or
12 employee that I had missed days here	12 something I could look at I could
13 and there. I cannot think of really	13 probably name them to you, but I
14 anyone who didn't at some point miss	14 can't think of names right now. But
15 at least three or four days, and none	15 I can say without a doubt that there
16 of them were terminated. They all	16 were a number of people who missed
17 still have their jobs.	17 way more than four days and still had
18 Q. Can you give me their	18 their jobs. I had Angela -- oh, what
19 names, please?	19 was her last name? Angela, she
20 A. Let's see. Shamarra	20 missed at least four days, because I
21 Bethel.	21 had to cover her shift at least
22 Q. Shamarra?	22 twice. And I think -- I can't say
23 A. Uh-huh.	23 for sure, but I think Tanisha, the

27 (Pages 105 to 108)

**367 VALLEY AVENUE
(205) 397-2397 BIRMINGHAM, ALABAMA 1-877-373-3660**

FREEDOM COURT REPORTING

Page 109	Page 111
<p>1 merchandise manager, she missed a 2 period of time as well.</p> <p>3 Q. Did Mr. Staples tell you 4 who made the decision to terminate 5 you?</p> <p>6 A. No.</p> <p>7 MR. WORLEY: I want to take 8 a break, if we could, and just go 9 over my notes.</p> <p>10 MR. MOREL: Okay.</p> <p>11 (Whereupon, a short recess 12 Was taken.)</p> <p>13 Q. (BY MR. WORLEY:) Are you 14 aware of Butch Jacobs sexually 15 harassing anybody else at Flying J?</p> <p>16 A. Yes.</p> <p>17 Q. Tell me about that.</p> <p>18 A. He -- I was told that he 19 had grabbed Sandrella -- I think her 20 last name was Yelder, something along 21 those lines -- her breasts. And, 22 then, Sherrie -- I can't think. I 23 want to say Appleton, but that may</p>	<p>1 had told her. I want to say it was 2 after the fact she told me, after I 3 had made my complaint.</p> <p>4 Q. Go ahead.</p> <p>5 A. I'm just not sure of the 6 timing for sure. And Sandrella, I 7 found out about hers after I made the 8 complaint. Somebody had mentioned it 9 to me and I called her and asked her 10 about it, and I asked her why she 11 didn't tell me.</p> <p>12 Q. Do you know whether or not 13 Sandrella Yelder had complained to 14 management about Butch Jacobs?</p> <p>15 A. No.</p> <p>16 Q. Do you know whether or not 17 Sherrie Appleton had complained to 18 management about Butch Jacobs?</p> <p>19 A. No.</p> <p>20 Q. Do you know other than -- 21 I'm not asking you about your 22 situation.</p> <p>23 A. Right.</p>
Page 110	Page 112
<p>1 not be correct. He had grabbed her, 2 attempted to pull her into his lap, 3 made comments to her. I'm trying to 4 think of what else she said; 5 attempted to touch her, I believe, as 6 well. I can't remember. What all 7 did she say? I know he had made a 8 number of sexually explicit comments 9 to her. She'd actually complained to 10 me about it.</p> <p>11 Q. Had he sexually harassed 12 anybody else besides Sandrella Yelder 13 and Sherrie Appleton, to your 14 knowledge? And I'm not including you 15 in that. You've already told me 16 about you.</p> <p>17 A. Not that I can think of at 18 this time.</p> <p>19 Q. Do you have any information 20 that Sandrella or Sherrie had 21 complained to Flying J management 22 about that?</p> <p>23 A. Sherrie had told me, and I</p>	<p>1 Q. Do you know whether anybody 2 had complained that Butch Jacobs had 3 sexually harassed them?</p> <p>4 A. No.</p> <p>5 Q. Have you held any jobs 6 since being terminated from Flying J?</p> <p>7 A. Two.</p> <p>8 Q. What jobs are those?</p> <p>9 A. Car sales at Towbin Dodge</p> <p>10 in Las Vegas, and then I was the</p> <p>11 assistant store manager. The store</p> <p>12 was Vegas Express, and it was for the</p> <p>13 Marshall retail group, also in Las</p> <p>14 Vegas.</p> <p>15 Q. When did you work as car 16 salesperson at Towbin?</p> <p>17 A. I can't remember the exact</p> <p>18 dates. I know I started in February.</p> <p>19 I didn't stay long. The hours were</p> <p>20 just too much, and it wasn't my cup</p> <p>21 of tea.</p> <p>22 Q. February of '07?</p> <p>23 A. Yes.</p>

FREEDOM COURT REPORTING

Page 117	Page 119
<p>1 ahead. Let's go off the record. 2 (Whereupon, a discussion 3 Was held off the record.) 4</p> <p>5 EXAMINATION BY MR. MOREL: 6 Q. Let me show you what I'm 7 going to mark as Plaintiff's Exhibit 8 1 in a moment, and ask you if you can 9 identify that?</p> <p>10 (Handing document to 11 Witness.)</p> <p>12 A. Oh, the charge of 13 discrimination -- what I filed with 14 the EEOC. 15 (Whereupon, Plaintiff's 16 Exhibit Number 1 was 17 Marked for identification.)</p> <p>18 Q. Okay. And did you sign 19 that?</p> <p>20 A. Yeah.</p> <p>21 Q. And is everything that is 22 written in there true?</p> <p>23 A. Yes.</p>	<p>1 defendant with a list of employee 2 names during the period of time that 3 you were employed by them. Does that 4 refresh your recollection at all? 5 (Handing document to 6 Witness.)</p> <p>7 A. Yes.</p> <p>8 Q. And are there any other 9 employees that missed more time, or 10 the same amount or more time than you 11 did, and yet were not terminated?</p> <p>12 A. Yes.</p> <p>13 Q. And who were they?</p> <p>14 A. Let's see. Bernice Beard, 15 she missed time. She called out 16 often. She was not fuel desk. 17 MR. MOREL: Just stay on 18 the question.</p> <p>19 A. Pamela Holcomb, she called 20 out.</p> <p>21 Q. (BY MR. MOREL:) And 22 remember the question. The question 23 is I want you to identify employees</p>
Page 118	Page 120
<p>1 Q. All right. And, so, 2 anything that you wrote in there when 3 you filed your charge about actions 4 taken than you were offended by with 5 regard to Butch Jacobs -- whatever is 6 in there that refers to that, those 7 are true?</p> <p>8 A. Yes.</p> <p>9 Q. All right. You testified 10 earlier about employees that had 11 missed at least as much time as you 12 had or more?</p> <p>13 A. Yes.</p> <p>14 Q. And did you testify that 15 you weren't able to remember some of 16 those names?</p> <p>17 A. Yes.</p> <p>18 Q. And would your recollection 19 be refreshed if you saw a list of 20 employee names?</p> <p>21 A. Yes.</p> <p>22 Q. All right. Let me show you 23 what has been provided to us by the</p>	<p>1 who missed four or more days and were 2 not terminated?</p> <p>3 A. Yeah. No, she missed. 4 I've already said Laquisha. Tanisha 5 Means, I'm fairly certain that she 6 did as well. Angela Nichols -- 7 that's what it was, Angela Nichols. 8 Erica Rudolph, she missed days. 9 Dominique Stowes, that's a 10 possibility.</p> <p>11 Q. I want you just to tell me 12 the people that you know for sure. I 13 don't want you to give me people that 14 you think maybe.</p> <p>15 A. Ginnifer for sure.</p> <p>16 Q. What's Ginnifer's last 17 name?</p> <p>18 A. Ginnifer Wyatt, W-Y-A-T-T, 19 and Sandrella Yelder.</p> <p>20 Q. The people that you've 21 named in your deposition today that 22 you say have missed as much time or 23 more than you without being</p>

FREEDOM COURT REPORTING

<p style="text-align: right;">Page 121</p> <p>1 terminated, do you have personal 2 knowledge of those facts? 3 A. Yes. 4 Q. And tell me how that is? 5 A. For one, I did the 6 scheduling. Two, more often than not 7 they would call out to me since I was 8 their immediate supervisor. If they 9 called out to anyone else I had to be 10 made aware of it as soon as they were 11 aware of it. If they were not there 12 for their shift, I was the one that 13 had to find somebody to cover their 14 shift, or I had to cover it myself. 15 And I knew who was supposed to be 16 there, and I would see that they're 17 not there. 18 Q. You testified earlier that 19 you assumed that the visit by the 20 managers to the strip club was open 21 knowledge. The other lawyer asked 22 you if you were saying that, and you 23 said yes. My question is, did you</p>	<p style="text-align: right;">Page 123</p> <p>1 testified that you complained about 2 various aspects of noncooperation and 3 other hostile conduct? 4 A. Yes. 5 Q. Did you ever say to anybody 6 at HR in that conversation that you 7 believed it was retaliation, or 8 connected in any way to your 9 complaints about Butch Jacobs? 10 A. Yeah. 11 MR. MOREL: That's all I 12 have. 13 MR. WORLEY: Nothing 14 further. 15 FURTHER THE DEPONENT SAITH NOT 16 17 18 19 20 21 22 23</p>
<p style="text-align: right;">Page 122</p> <p>1 have any basis for assuming that? 2 Why did you assume it? 3 A. It was so openly discussed. 4 It was discussed constantly in front 5 of -- there was no caution on who 6 they discussed it in front of. 7 Q. What kinds of employees did 8 they discuss it in front of? 9 A. Everybody. 10 Q. Strike that. Did they ever 11 discuss that issue in the presence of 12 subordinate employees? 13 A. Yes. 14 Q. Did they discuss that issue 15 in the presence of other managers? 16 A. Yes. 17 Q. When you -- you testified 18 about having a conversation with HR 19 when you were trying to get some new 20 hire information. Do you recall that 21 testimony? 22 A. Yes. 23 Q. All right. And you</p>	<p style="text-align: right;">Page 124</p> <p>1 C E R T I F I C A T E 2 3 STATE OF ALABAMA: 4 JEFFERSON COUNTY: 5 6 I hereby certify that the 7 above and foregoing deposition was 8 taken down by me in stenotype, and 9 the questions and answers thereto 10 were reduced to typewriting under my 11 supervision, and that the foregoing 12 represents a true and correct 13 transcript of the deposition given by 14 said witness upon said hearing. 15 I further certify that I am 16 neither of counsel nor kin to the 17 parties to the action, nor am I in 18 any way interested in the result of 19 said cause. 20 21 22 Sunnie Gillespie 23 CCR#: 145</p>